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RELATED TO

FOSTER CARE, ADOPTION ASSISTANCE, AND CHILD WELFARE SERVICES UNDER THE SOCIAL SECURITY ACT

COMMITTEE ON FINANCE
UNITED STATES SENATE

BOB PACKWOOD, CHAIRMAN

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NOTE.—Data relating to the foster care, adoption assistance, and child welfare programs have been collected under significantly different methodologies in different years. Consequently, certain categories of information are available for some years but not others, and data shown for different periods may not be comparable. Current adoption assistance and foster care data are primarily obtained through voluntary reporting by the States to the American Public Welfare Association. These data are not reported on an entirely consistent basis. (For example, some States count children placed in foster care with relatives; others do not.) Also, not all States provide all categories of information.

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Introduction

There are three major Federal programs, all established under the Social Security Act, that provide funds for foster care services for children: Aid to Families with Dependent Children (AFDC) foster care under title IV-E (formerly title IV-A), which provides foster care maintenance payments; child welfare services under title IV-B, which provides funds for foster care services; and foster care services under title XX (the social services block grant program). The AFDC program is designed only for children who would be eligible for Aid to Families with Dependent Children if they were not in foster care. Federal law does not place any income or categorical restrictions on who may be served under the child welfare services and the title XX programs. States are free, however, to establish eligibility requirements for title XX.

More than 100,000 (monthly average) children participated in the AFDC foster care program in FY 1984. It is estimated that approximately that many children will again participate in FY 1985 at a Federal cost of approximately $485 million. Because there are few reporting requirements in the child welfare and social services programs, recent data on foster care expenditures and participation under those programs are not available. It was estimated that States used approximately $579 million from Federal and non-Federal sources for foster care under title IV-B in FY 1979; and that approximately $168 million of Federal funds expended under title XX in FY 1979 was for foster care services.

Legislation has been proposed by the Administration to revise the AFDC foster care program. The following provides background information on the AFDC foster care program under title IV-A (from 1962-1980); discusses the changes made in the program since the passage of the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) which transferred AFDC foster care to a new title IV-E and created the adoption assistance program; and describes proposals in the 99th Congress to modify the program.

Background: AFDC Foster Care Under Title IV-A 1962-1980

Federal assistance to enable States to make maintenance payments for children who were not living with a parent or close relative—that is, who were living in foster care—first became available under the Aid to Dependent Children (ADC) program (title IV-A of the Social Security Act) in 1961.

The legislation which authorized this assistance (P.L. 87-31) was developed to resolve a controversy surrounding the practice in some States of denying benefits if the children's homes were found to be "unsuitable". In 1961, the Department of Health, Education and Welfare (HEW) issued a ruling (later called the Flemming Rule) prohibiting States from imposing an eligibility condition that

would deny ADC assistance to an otherwise eligible child on the basis of an unsuitable home environment while the child continued to live in the home. States were to continue the assistance payments while making efforts to either improve the home conditions or make other living arrangements for the child. Congress acted to help States comply with the ruling by authorizing a temporary program of Federal matching funds for ADC payments for children removed from a home and placed in foster care as a result of a judicial determination that continuing to live in the home was detrimental to the child (P.L. 87-31). As enacted, the program authorized Federal aid for payments on behalf of children in foster care who had been receiving aid under ADC in the month when court proceedings were initiated.

In 1962, Congress made the program permanent. Subsequent amendments: made the program mandatory for the States; extended payments to children in private, non-profit institutions; and broadened eligibility to include children who would have been eligible for ADC (later AFDC) benefits if application had been made during the month court proceedings to remove the child from the home were initiated or who were not living with a relative when court proceedings were initiated but who would have been eligible if they had been living with the relative within six months prior to initiation.

Data on the title IV-A foster care program are incomplete. Even after AFDC foster care became mandatory for the States in 1969, separate reporting on this component of the program was not required for several years. However, it is clear that the number of children served and program expenditures grew rapidly after 1969, when all State AFDC programs were required to provide foster care payments. In 1969, 30 States reported benefits for approximately 16,800 children. By the mid-1970s, all States were reporting, and the number of children receiving benefits had topped 100,000 (see table 1). The title IV-A foster care population grew from approximately one-half of 1 percent of the total AFDC recipient child population in 1969 to one and one-half percent of that population in 1980 (see table 2).

TABLE 1.—GROWTH IN AFDC FOSTER CARE PROGRAM, FY 1962–FY 1980

Fiscal year	States reporting	Children receiving AFDC foster care (average monthly number)
1962	11	989
1963	14	2,308
1964	21	4,081
1965	23	5,623
1966	23	7,385
1967	25	8,030
1968	27	8,500
1969	30	16,750
1970	41	34,450
1971	45	57,075

TABLE 1.—GROWTH IN AFDC FOSTER CARE PROGRAM, FY 1962–FY 1980—Continued

Fiscal year	States reporting	Children receiving AFDC foster care (average monthly number)
1972	48	71,118
1973	NA	84,097
1974	NA	90,000
1975	[1] 50	106,869
1976	Same	114,962
1977	Same	110,494
1978	Same	106,504
1979	Same	103,771
1980	Same	100,272

[1] Plus Virgin Islands, Puerto Rico, Guam, and D.C.

Sources: Senate Finance Committee Hearings on Public Assistance Act of 1962 and Public Assistance Statistics (for selected years), Department of Health, Education and Welfare; and Division of Research, Evaluation and Statistics, Office of Family Assistance, Social Security Administration.

TABLE 2.—REPORTED AFDC FOSTER CARE POPULATION AND TOTAL AFDC CHILDREN FY 1962–FY 1982

Fiscal year	Children receiving AFDC foster care (average monthly) [2]	Children receiving AFDC
1962	989	2,781,000
1963	2,308	[1] 2,921,000
1964	4,081	[1] 3,075,000
1965	5,623	3,243,000
1966	7,385	3,369,000
1967	8,030	3,558,000
1968	8,500	4,013,000
1969	16,750	4,591,000
1970	34,450	5,494,000
1971	57,075	6,963,000
1972	71,118	7,698,000
1973	84,097	[1] 7,968,000
1974	90,000	[1] 7,825,000
1975	106,869	7,952,000
1976	114,962	8,091,000
1977	110,494	7,846,000
1978	106,504	7,492,000
1979	103,771	7,197,000
1980	100,272	7,320,000

[1] Estimate.

[2] Incomplete data based on voluntary reporting prior to 1975.

Source: Division of Research, Evaluation and Statistics, Office of Family Assistance, Social Security Administration.

TABLE 3.—U.S. FOSTER CARE POPULATION AND U.S. POPULATION AGES 0 TO 18, 1962–82

Year	U.S. foster care population (fiscal year) [1]	U.S. population ages 0 to 18 (calendar year) [2]
1962	272,000	69,864,000
1963	276,000	71,164,000
1964	287,000	72,406,000
1965	300,000	73,520,000
1966	309,400	73,179,000
1967	309,600	73,429,000
1968	316,200	73,396,000
1969	320,000	74,000,000
1970	326,000	73,516,000
1971	330,400	73,665,000
1972	319,800	73,369,000
1973	Not available	72,243,000
1974	Not available	72,070,000
1975	Not available	71,402,000
1976	Not available	70,500,000
1977	Not available [3]	69,699,000
1978	Not available	67,003,000
1979	Not available	68,307,000
1980	302,000 [4]	67,913,000
1981	274,000 [4]	67,406,000
1982	251,000 [4]	66,995,000

[1] Data from Child Welfare Research Notes #8 (July 1984), published by Administration for Children, Youth and Families, HDS, DHHS. This note cites as sources of data for the foster care population: annual reports from 1962–72 of the Children's Bureau and the National Center for Social Statistics, Social and Rehabilitation Services; National Study of Social Services to Children and Their Families, published by ACYF in 1978, for 1977 data; and the Office of Civil Rights, DHHS, report, "1980 Children and Youth Referral Survey: Public Welfare and Social Service Agencies" for 1980 data.

[2] U.S. Census Bureau, Population Division, unpublished data.

[3] One study involving a sample survey of 9,600 cases was used to project a national foster care caseload, in 1977 of 502,000. This is so far out of line with the data for other years as to appear highly questionable.

[4] Data for 1980, 1981, and 1982 were collected using a variety of methodologies and may not be comparable with each other or with the pre-1973 data.

During the 1970s, a number of concerns were raised about the extent of foster care in this country (see table 3). While the use of foster care was recognized as an important and necessary tool for child welfare agencies in protecting and providing for the welfare of children, it was considered generally undesirable to keep children in foster care, particulary long-term foster care, when other, more permanent arrangements could be attained. It was suggested that the level of foster care usage could be reduced by a greater emphasis on services aimed at working with the family to prevent the need for placement, by better systems for tracking those who had been placed in foster care coupled with periodic reviews to evaluate the appropriateness of continuing such care, and by more emphasis on removing children from foster care through returning them to their own families or by placing them in adoptive homes.

The need to avoid long-term foster care wherever possible was urged on the basis that the lack of a permanent home was believed to present a high risk of damaging the social, emotional, and psy-

chological development of a child. Proponents of a change in policy also argued that the costs of services to achieve permanent placements might be more than offset by a reduction in the costs of providing full maintenance for the child for many years through the AFDC foster care system. It was suggested that Federal policy provided fiscal incentives for foster care placements by offering substantial funding for maintenance costs on an open-ended entitlement basis while providing much smaller and restricted funding for the kinds of services which could reduce the need for those maintenance expenditures.

TABLE 4.—AFDC FOSTER CARE EXPENDITURES, FISCAL YEAR 1971–80

[In millions]

Fiscal year	Total expenditures (State and Federal)	Federal share only
1971 [1]	$70	$40
1972 [2]	160	85
1973 [2]	129	71
1974 [2]	166	90
1975 [2]	259	138
1976 [2]	423	221
1977 [3]	351	183
1978 [4]	403	209
1979 [5]	392	205
1980	416	217

[1] No reporting for Illinois, Massachusetts and Pennsylvania for Fiscal Year 1971.
[2] No reporting for Illinois, Virgin Islands, or Puerto Rico for Fiscal Year 1972–76.
[3] No reporting for Illinois, Puerto Rico, Virgin Islands, or Guam for Fiscal Year 1977.
[4] No reporting for Illinois, Rhode Island, Guam, Puerto Rico or the Virgin Islands for Fiscal Year 1978.
[5] No reporting for Illinois, Arizona, Guam, Puerto Rico or the Virgin Islands for Fical Year 1979.

Source: Data for Fiscal Year 1971–79 from Expenditures for Public Assistance Programs. Data for Fiscal Year 1980 from Office of Family Assistance, Social Security Administration. Data for Fiscal Year 1971–80 do not include training and administrative costs.

TABLE 5.—AFDC FOSTER CARE AND TOTAL FOSTER CARE POPULATION IN THE UNITED STATES (FY 1962–FY 1980)

Fiscal year	AFDC foster care children	Total foster care children in United States
1962	989	272,000
1963	2,308	276,000
1964	4,081	287,000
1965	5,623	300,000
1966	7,385	309,400
1967	8,030	309,600
1968	8,500	316,200
1969	16,750	320,000
1970	34,450	326,000
1971	57,075	330,400

TABLE 5.—AFDC FOSTER CARE AND TOTAL FOSTER CARE POPULATION IN THE UNITED STATES (FY 1962–FY 1980)—Continued

Fiscal year	AFDC foster care children	Total foster care children in United States
1972	71,118	319,800
1973	84,097	Not available.
1974	90,000	Not available.
1975	106,869	Not available.
1976	114,962	Not available.
1977	110,494	Not available.[1]
1978	106,504	Not available.
1979	103,771	Not available.
1980	100,272	302,000

[1] See footnote 3 on Table 3.

Source: Data on AFDC foster care children for FY 1962–1980 from Office of Family Assistance, Social Security Administration. Data on total foster care in the U.S. from ACYF Child Welfare Research Note No. 8 (July 1984).

Under the AFDC program, any State expenditures for foster care of AFDC eligible children were matched by the Federal government at the same rate that applied to other AFDC benefit costs (generally 50 to 83 percent depending on State per capita income). As shown in table 4, Federal funding for these purposes grew to over $200 million by the late 1970s. The AFDC foster care program, however, funded only maintenance and related administrative costs for children in foster care. Federal support for preventive services or for services aimed at returning children to their own home or placing them for adoption was available only through the child welfare services and title XX programs. Neither of these programs provided open ended funding.

The overall funding level of the title XX program was relatively stable during the 1970s except for an increase in 1976 aimed specifically at funding child care services and a general increase of $200 million which became effective in 1979. While some States may have used a portion of title XX funds for services designed to reduce the need for foster care, such services had to compete with many other demands for funds in this very broad social services program.

The Child Welfare Services program under title IV–B was more clearly targeted at the kinds of services needed to reduce foster care dependency, but funding was more limited. Although the authorization for the program had been increased to $266 million under the 1972 amendments, the actual program funding remained well below this level (it was $56.5 million in 1979). Moreover since the AFDC program only covered about one-third of what appears to have been the overall foster care population, States used this program as a funding source for foster care maintenance costs for those children who were in foster care but did not meet the eligibility requirements of the AFDC program (see table 5). The entire Federal payment for child welfare services represented a relatively

small proportion of what State and local governments had to spend just for maintenance costs. For example, the Department of Health and Human Services estimates that 73 percent of the total $786 million (Federal and non-Federal) expenditures for child welfare services under title IV-B (nearly $579 million) in 1979 went for foster care.

The detailed arguments for a review of Federal policy relating to child welfare and foster care services addressed several specific concerns:

(1) It was argued that the Federal Government should encourage States to prevent inappropriate foster care placements and ensure children remained in foster care only as long as necessary. Several studies during the 1970s noted that foster care placement was often the alternative used when other services were not available. It was argued that States had an incentive to use foster care placement under title IV-A for eligible children (for which the Federal matching was unlimited) rather than to provide preventive or rehabilitative services for at-risk families (which were primarily funded at either the State or local level).

Much concern was also expressed about the length of time children were left in foster care situations. In 1977, a study sponsored by DHEW found that 58 percent of all children in foster care had been there for more than 2 years and that 2½ years was the median length of stay. Child welfare researchers noted that the likelihood of a child's leaving foster care decreased with the length of stay.

In addition, concern was expressed regarding the need for ensuring that States pursued a policy of initial placement interviews, goal setting, and periodic re-evaluations since these were viewed as mechanisms to help ensure that children were placed appropriately and not simply forgotten once they entered the foster care system.

(2) It was argued that older children, children with physical or other handicaps, or children who were part of a minority or sibling group were difficult to place in permanent homes, in part because many families were financially unable to afford the costs of adopting them—either because of the financial status of the prospective adoptive family or because of the expenses associated with the special medical or similar needs of the children. In addition, it was often not in the economic interest of foster parents to adopt such children since Federal coverage of their expenses (including Medicaid, for which children receiving AFDC foster care were eligible) would cease once they were adopted unless the adoptive parents were themselves eligible for AFDC for other reasons.

By the mid-1970s, most of the States had enacted laws which provided for some type of subsidies for maintenance payments and/or medical assistance to help parents adopting children with special needs which made them difficult to place. However, such programs were limited and no Federal funds were specifically earmarked for this purpose. Arguments were made that Federal assistance in this area would serve the interests of the children by helping in their adoptive placement and would also be cost-effective, i.e., the average cost per child would be less than the cost of maintaining the child in the AFDC foster care program.

Other concerns expressed about the title IV-A foster care program related to the lack of data on the number of children receiving the services and the length of time these children remained in foster care, the demographic characteristics of the recipient population, the specific services provided, and the cost of the services provided. Questions were also raised about the necessity and desirability of continuing to limit Federal funding of AFDC foster care to cases where the child had been removed from the home by action of a court. Similar questions were raised about the non-availability of Federal matching for institutional foster care in public facilities, particularly small public facilities which might offer a more desirable alternative to care in a large non-profit institution.

Many of the concerns relating to foster care in the U.S. and AFDC foster care specifically were discussed during congressional hearings held in the mid- to late-1970s. Proposals to revise some parts of the title IV-A program, addressing some of the concerns, were considered during this period. In 1977, the Committee on Finance reported legislation (H.R. 7200) to restructure the Social Security Act programs of foster care and child welfare services and to establish an adoption assistance program. The bill was not finally acted on, but in 1980, similar legislation was enacted (the Adoption Assistance and Child Welfare Act of 1980, P.L. 96-272). This legislation was designed to encourage States to reunite children with their families or to place them in permanent homes and contains new requirements intended to serve as incentives to States to accomplish these goals. The legislation also provides for a number of modifications in the foster care system, such as improved information and record-keeping requirements. The provisions of the 1980 legislation and statistics on both the AFDC foster care and the adoption assistance program operations under the new title IV-E are discussed in the following section.

Current Law: AFDC Foster Care and Adoption Assistance Under Title IV-E

AFDC foster care, which had been a part of the general program of Aid to Families with Dependent Children (AFDC) under title IV-A, was amended by the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272). This legislation continued AFDC foster care as a required Federal matching grant program, but transferred the program to a new title IV-E. It also changed the funding mechanisms for the AFDC foster care program and the child welfare services programs under title IV-B, providing linkages between the two to encourage less reliance on foster care placements and greater use of preventive and rehabilitative services. The entitlement nature of AFDC foster care was retained but its open-endedness was potentially limited under a temporary provision which was contingent on the funding level of child welfare services.

The legislation made other changes intended to help prevent inappropriate placements or long-term stays in foster care. It also established and permanently authorized under title IV-E a new Federal matching grant program for payments to parents who adopt a child with special needs that preclude the placement of the child in

a permanent home without such payments. Adoption assistance funding was on an open-ended entitlement basis.

Both of the title IV-E programs are to be administered by the same agency responsible for administering the title IV-B program, the Administration for children, youth and families (ACYF) in the Office of Human Development Services, Department of Health and Human Services. Legislation to continue through October 1, 1985 certain provisions that were to expire October 1, 1983 was enacted in the 98th Congress (P.L. 98-118 and P.L. 98-617). The following discusses the changes in the AFDC foster care program and the newly created adoption assistance program under title IV-E.

CHANGES IN AFDC FOSTER CARE AND CHILD WELFARE SERVICES

1. Funding linkages

The 1980 legislation changed the funding mechanisms for both the title IV-B child welfare services and the IV-E foster care programs. These changes were intended to serve as incentives to States to utilize child welfare services in lieu of initial or continued foster care placement when possible and appropriate.

The legislation assumes increased appropriations for child welfare services but limits the amount of new Federal child welfare services funds States can spend until certain protections are implemented for children in foster care; it allows States to transfer money from their AFDC foster care allotments to their title IV-B child welfare programs for specified services if they meet certain requirements intended to protect children in foster care.

FOSTER CARE PROTECTIONS LINKED TO CHILD WELFARE SERVICES FUNDING

To encourage States to use their child welfare services money for services to help keep families together and prevent the removal of children, the legislation requires that if the child welfare services appropriation exceeds $56.5 million in any of fiscal years 1981-85, States cannot use any of the funds in excess of their share of $56.5 million under the title IV-B allocation formula for foster care maintenance payments, adoption assistance, or work-related child care. Appropriations for child welfare services have exceeded $56.5 million every year since passage of the legislation (see table 6).

TABLE 6.—TITLE IV-B CHILD WELFARE SERVICES APPROPRIATIONS, FISCAL YEAR 1981-85

[In millions]

	Appropriations
Fiscal year:	
1981	$163.6
1982	156.3
1983	156.3
1984	165.0
1985	200.0

In addition, if the appropriation for the title IV–B program exceeds $141 million in any year, States are not eligible for any of the funds in excess of their share of the $141 million unless protections for all foster care children under the responsibility of the State agency (not just AFDC foster care children) have been implemented, including: (1) an inventory of children in foster care more than 6 months; (2) a statewide information system on children in foster care; (3) a system for case review for each foster care child, including a case plan for each child, a 6-month review and an 18-month dispositional hearing, to assure placement in the least restrictive setting, close to home, and to assure procedural safeguards; and (4) a services program to assist children, when possible, return to their homes. In addition, if the IV–B appropriation equals the authorized level of $266 million for two consecutive years, States must implement the above procedures as well as a service program of preplacement preventive services to help prevent the removal of a child from his home or its IV–B funds are to be reduced to the share of $56 million it received in FY 1979 until such a program is implemented.

The appropriations for title IV–B (as shown in table 6) have exceeded $141 million (but have not reached $266 million) annually since FY 1981. According to the Department, 34 States (including Puerto Rico) self-certified their eligibility for incentive funds (i.e. their share of the funds in excess of $141 million) in FY 1981; and 10 additional States self-certified their eligibility for FY 1982. The Department reviewed these self-certifications and found 24 States eligible for FY 1981 (four were found ineligible, five withdrew, and one review is pending). The Department found 32 States eligible for FY 1982 (four were found ineligible, three withdrew, one decision is pending and four reviews are pending). In FY 1983, 33 States were approved, four denied, and seven are pending (see table 7).

State-by-State data on the annual number of children in foster care are not available. Table 8 gives some indication that the numbers may have decreased between 1980 and 1982; however, the pattern is not consistent among the States and the data were collected in different ways in the two years. These data are from 1980 Office of Civil Rights (OCR) Survey, a national county-specific census of all children in legal custody for referral or out-of-home placement as of January 8, 1980; and the American Public Welfare Association Voluntary Cooperative Information System (VCIS) (funded in part by DHHS) which reflects voluntary reports from the States which cover varying reporting periods, varying time periods, and varying definitions, published in September 1982.

TRANSFER OF FOSTER CARE FUNDS TO CHILD WELFARE SERVICES

The new legislation, as amended, established a mandatory ceiling on Federal AFDC foster care payments for each of fiscal years 1981–85 if appropriations for the child welfare services program reach a specified level of $163.5 million in FY 1981, $220 million in FY 1982, and $266 million in FY 1983, FY 1984, and FY 1985. With the ceiling, States may transfer, under certain conditions, any unused foster care funds to use for any child welfare services under title IV–B. In those years when appropriations do not reach the

trigger amount, States may choose to operate under a voluntary ceiling and transfer a certain proportion of unused foster care funds to their child welfare services program.

Each year a State's ceiling is based on the greater of: (1) the FY 1978 AFDC foster care funding for the State with annual increases equal to the lesser of 10 percent or twice the increase in the consumer price index, or (2) a share of $100 million based on the State's under-18 population. In a year in which the title IV–B trigger amount has been appropriated, a State may choose to have its ceiling based on one of two options; the higher of (1) or (2) above; or (3) the 1978 funding level increased by the AFDC foster care caseload increase since FY 1978 if the State's caseload (relative to its total child population) was lower than the 1978 national average foster care caseload (until the caseload equals or exceeds the 1978 national average).

TABLE 7.—STATUS OF STATE COMPLIANCE WITH REQUIRED CHILD WELFARE PROTECTIONS, FISCAL YEAR 1983

State	Status of compliance
Alabama	Approved.
Alaska	(1)
Arizona	Approved.
Arkansas	Approved.
California	Pending.
Colorado	Approved.
Connecticut	Approved.
Delaware	Denied (appealed).
District of Columbia	Pending.
Florida	Denied (appealed).
Georgia	Approved.
Hawaii	(1)
Idaho	Approved.
Illinois	Approved.
Indiana	Approved.
Iowa	Approved.
Kansas	Approved.
Kentucky	Approved.
Louisiana	Pending.
Maine	Approved.
Maryland	Denied (appealed).
Massachusetts	(1)
Michigan	(1)
Minnesota	Approved.
Mississippi	Approved.
Missouri	Approved.
Montana	Approved.

TABLE 7.—STATUS OF STATE COMPLIANCE WITH REQUIRED CHILD WELFARE PROTECTIONS, FISCAL YEAR 1983—Continued

State	Status of compliance
Nebraska	Pending.
Nevada	Approved.
New Hampshire	(1)
New Jersey	Approved.
New Mexico	Approved.
New York	Approved.
North Carolina	Approved.
North Dakota	Approved.
Ohio	Denied (appealed).
Oklahoma	Approved.
Oregon	Approved.
Pennsylvania	Approved.
Rhode Island	Pending.
South Carolina	Approved.
South Dakota	Approved.
Tennessee	Approved.
Texas	Approved.
Utah	Approved.
Vermont	(1)
Virginia	Pending.
Washington	Approved.
West Virginia	Approved.
Wisconsin	Pending.
Wyoming	Pending.

[1] States did not self-certify; or DHHS has not commenced review.

Source: OHDS, DHHS.

TABLE 8.—THE NUMBER OF CHILDREN IN FOSTER CARE IN THE UNITED STATES—1980 OFFICE OF CIVIL RIGHTS DATA AND 1982 VOLUNTARY COOPERATIVE INFORMATION SYSTEM DATA

State	Fiscal year 1982 [1]	1980 OCR [2]	Change
Alabama	4,374	5,421	−1,047
Arizona	1,158	2,170	−1,012
Arkansas	1,473	1,359	+114
California	31,288	27,534	+3,754
Colorado	2,830	4,231	−1,401
Connecticut	4,287	4,090	+197
Delaware	865	1,059	−194

TABLE 8.—THE NUMBER OF CHILDREN IN FOSTER CARE IN THE UNITED STATES—1980 OFFICE OF CIVIL RIGHTS DATA AND 1982 VOLUNTARY COOPERATIVE INFORMATION SYSTEM DATA—Continued

State	Fiscal year 1982 [1]	1980 OCR [2]	Change
District of Columbia	2,145	3,239	−1,094
Florida	6,156	9,922	−3,766
Georgia	6,573	5,959	+614
Hawaii	605	592	+13
Idaho	737	822	−85
Illinois	13,855	11,480	+2,375
Iowa	3,145	2,856	+289
Kansas	3,918	4,006	−88
Kentucky	2,612	4,896	−2,284
Louisiana	6,479	5,244	+1,235
Maine	2,128	2,019	+109
Maryland	7,498	7,483	+15
Massachusetts	8,033	9,634	−1,601
Michigan	7,091	10,585	−3,494
Minnesota	6,281	7,519	−1,238
Mississippi	1,857	2,380	−523
Missouri	6,194	7,492	−1,298
Montana	907	829	+78
Nebraska	2,538	2,666	−128
Nevada	1,139	968	+171
New Hampshire	1,048	1,317	−269
New Mexico	947	1,271	−324
New York	32,454	40,762	−8,308
North Carolina	4,834	8,531	−3,697
North Dakota	713	494	+219
Ohio	22,925	17,663	+5,262
Oklahoma	2,071	2,061	+10
Oregon	4,903	5,254	−351
Pennsylvania	11,450	14,652	−3,202
Rhode Island	2,100	1,636	+464
South Carolina	2,925	3,497	−572
South Dakota	790	774	+16
Tennessee	3,852	4,329	−477
Texas	5,409	6,818	−1,409
Utah	1,416	1,349	+67
Vermont	761	770	−9
Virginia	6,990	8,458	−1,468
Washington	5,808	4,737	+1,071

TABLE 8.—THE NUMBER OF CHILDREN IN FOSTER CARE IN THE UNITED STATES—1980 OFFICE OF CIVIL RIGHTS DATA AND 1982 VOLUNTARY COOPERATIVE INFORMATION SYSTEM DATA—Continued

State	Fiscal year 1982 [1]	1980 OCR [2]	Change
West Virginia	1,929	2,650	−721
Wisconsin	4,835	6,410	−1,575
Wyoming	238	406	−168
Total children	254,564	280,294	−25,730
National estimate based on OCR total	274,000	302,000	−28,000

[1] Voluntary Cooperative Information System data based on 49 States.
[2] Office of Civil Rights 1980 data.

Source: June 1984 DHHS report to the Congress on title IV–E.

When operating under the mandatory ceiling, States—except those choosing to calculate the ceiling amount under the alternative formula (No. 3 above)—can use matching foster care funds for the title IV–B child welfare services at the IV–B Federal matching rate of 75 percent. Although the technical matching rate is 75%, States are allowed to use their general foster care costs to meet the non-Federal matching requirement. (Effectively, this means that the receipt of new Federal funds does not require any increase in State matching funds.) These funds cannot exceed the State's share of $141 million under the IV–B allocation formula unless certain preplacement preventive services are implemented. If the IV–B appropriations are $266 million for two consecutive years, a State cannot transfer funds from IV–E to IV–B unless all the foster care procedures and protections required for receipt of additional IV–B child welfare services funds, including preplacement preventive services, are implemented. The mandatory ceiling has been in operation only one year, FY 1981. Table 9 shows Federal expenditures and children participating in AFDC foster care for FY 1981–84. Table 10 shows the Federal funding for AFDC foster care State-by-State in FY 1981, under the mandatory ceiling, including funds transferred from title IV–E to title IV–B child welfare services.

TABLE 9.—TITLE IV–E FOSTER CARE RECIPIENTS AND FEDERAL EXPENDITURES, FISCAL YEAR 1981–84

Fiscal year	AFDC foster care children (average monthly number)	Total expenditures (State and Federal) (in millions)	Federal share only (in millions)
1981	106,443	$579	[1] $304
1982	103,274	673	[1] 351
1983	101,594	702	[1] 364
1984 (estimate)	100,096	856	[1] 445

[1] Include claims for transfer of unused title IV–E foster care funds to title IV–B child welfare services.
Source: ACYF, DHHS. Data do not include training and administrative costs. Based on information available September 1984.

TABLE 10.—FEDERAL FUNDING IN FISCAL YEAR 1981 FOR AFDC FOSTER CARE [1]

[In thousands]

	Average No. of children per month	Federal payment for foster care[2] [3]	Transfers to IV-B	Total
Alabama	1,516	$1,735	0	$1,735
Alaska	56	208	0	208
Arizona	618	798	0	798
Arkansas	395	507	$467	974
California	16,708	54,241	0	54,241
Colorado	529	788	1,066	1,854
Connecticut	775	1,520	0	1,520
Delaware	273	361	0	361
District of Columbia	1,882	645	0	645
Florida	1,151	1,679	0	1,679
Georgia	1,398	2,267	0	2,267
Hawaii	21	19	0	19
Idaho	199	294	0	294
Illinois	5,528	7,068	0	7,068
Indiana	1,676	1,157	0	1,157
Iowa	651	1,125	412	1,537
Kansas	1,590	3,547	0	3,547
Kentucky	1,286	1,651	840	2,491
Louisiana	1,767	3,694	0	3,694
Maine	1,145	2,292	0	2,292
Maryland	2,334	3,496	0	3,496
Massachusetts	561	2,303	0	2,303
Michigan	5,785	17,831	0	17,831
Minnesota	1,699	4,393	0	4,393
Mississippi	879	982	0	982
Missouri	2,098	2,146	957	3,103
Montana	250	683	0	- 683
Nebraska	599	1,076	0	1,176
Nevada	209	434	0	434
New Hampshire	484	636	0	636
New Jersey	1,615	1,825	1,371	3,196
New Mexico	222	109	0	109
New York	20,173	99,625	61,693	161,318
North Carolina	5,157	1,700	0	1,700
North Dakota	335	600	0	600
Ohio	3,530	4,182	0	4,182

TABLE 10.—FEDERAL FUNDING IN FISCAL YEAR 1981 FOR AFDC FOSTER CARE [1]—Continued

[In thousands]

	Average No. of children per month	Federal payment for foster care[2] [3]	Transfers to IV–B	Total
Oklahoma	791	$1,160	144	$1,304
Oregon	1,314	3,981	2,726	6,707
Pennsylvania	5,359	29,127	0	29,127
Rhode Island	429	393	0	393
South Carolina	527	607	$809	1,416
South Dakota	400	649	0	649
Tennessee	1,730	2,027	$800	2,827
Texas	2,661	5,758	0	7,758
Utah	229	445	362	807
Vermont	269	660	225	885
Virginia	2,276	3,026	0	3,026
Washington	812	1,666	2,082	3,748
West Virginia	605	1,127	0	1,127
Wisconsin	3,898	9,468	0	9,468
Wyoming	39	64	155	219
Total	106,443	287,775	74,109	361,884

[1] Based on information available as of Sept. 15, 1983
[2] Includes maintenance, administration, and training.
[3] Statutory ceiling on foster care FFP was in effect.

Source: DHHS July 1984 report to Congress on title IV–E.

In the years when a State chooses to use a voluntary ceiling, it can transfer an amount, which together with its IV–B allocation, does not exceed what it would have received if the IV–B appropriation had been adequate to trigger the ceiling. In addition, the amount transferred, when added to its IV–B allocation, cannot exceed its share of $141 million under the IV–B allocation formula unless certain of the foster care procedures and protections specified in the 1980 legislation are implemented. If the amount of money transferred plus direct IV–B funds for any two fiscal years equal the State's share of $266 million under the IV–B allocation formula, the State cannot transfer funds unless it has implemented all the foster care procedures and protections specified in the 1980 legislation for the receipt of additional child welfare services funds, including preplacement preventive services (see table 15).

States have had the option of choosing a voluntary ceiling since FY 1981. Under the voluntary ceiling, 24 States transferred a total of $20.6 million from title IV–B to IV–E in FY 1982; 31 States transferred a total of $32.6 million in FY 1983; and that 23 States transferred a total of $41.9 million in FY 1984 (see table 11). DHHS estimates that 28 States will transfer a total of $30.2 million in FY 1985 (see table 12). In recent years an increasing proportion of IV-E

foster care costs have gone for administration and training (see tables 13 and 14).

TABLE 11.—FEDERAL FUNDING IN FISCAL YEAR 1984 FOR AFDC FOSTER CARE

[Dollars in millions]

Name of State	Average number of children per month	Expenditures	IV–B transfers	Expenditures and transfers
Alabama	1,513	$2.20	$0	$2.20
Alaska	19	.08	0	.08
Arizona	507	2.10	0	2.10
Arkansas	395	.55	0	.55
California	18,197	99.73	4.45	104.18
Colorado	1,204	1.60	.84	2.45
Connecticut	1,100	2.93	0	2.93
Delaware	294	.31	.24	.55
District of Columbia	1,592	7.15	0	7.15
Florida	1,439	2.92	.75	3.67
Georgia	1,602	7.37	0	7.37
Hawaii	26	.04	0	.04
Idaho	156	.25	.23	.48
Illinois	4,107	6.30	0	6.30
Indiana	1,488	1.10	1.56	2.66
Iowa	656	1.84	.37	2.21
Kansas	1,046	3.45	.97	4.42
Kentucky	1,153	2.19	1.00	3.19
Louisiana	1,981	10.51	0	10.51
Maine	825	2.97	0	2.97
Maryland	1,805	3.06	1.60	4.67
Massachusetts	927	5.09	0	5.09
Michigan	6,082	33.33	0	33.33
Minnesota	1,665	6.37	0	6.37
Mississippi	750	.97	.33	1.31
Missouri	1,748	7.86	1.11	8.97
Montana	357	1.53	0	1.53
Nebraska	635	2.29	0	2.29
Nevada	224	.36	0	.36
New Hampshire	467	1.21	0	1.21
New Jersey	3,350	6.47	0	6.47
New Mexico	302	.63	0	.63
New York	16,891	128.43	6.50	134.93
North Carolina	1,524	2.11	.51	2.62
North Dakota	280	.79	0	.79

TABLE 11.—FEDERAL FUNDING IN FISCAL YEAR 1984 FOR AFDC FOSTER CARE—Continued

[Dollars in millions]

Name of State	Average number of children per month	Expenditures	IV–B transfers	Expenditures and transfers
Ohio	4,171	5.80	0	5.80
Oklahoma	905	3.68	0	3.68
Oregon	1,357	6.37	1.12	7.49
Pennsylvania	4,950	29.19	4.73	33.92
Rhode Island	459	1.24	0	1.24
South Carolina	846	1.34	0	1.34
South Dakota	282	.52	.10	.62
Tennessee	1,135	1.69	1.74	3.43
Texas	2,685	12.81	0	12.81
Utah	295	.81	.11	.92
Vermont	431	1.93	0	1.93
Virginia	1,984	3.09	1.98	5.08
Washington	1,203	4.36	1.63	5.99
West Virginia	760	5.33	0	5.33
Wisconsin	2,266	10.38	.19	10.57
Wyoming	65	.14	.10	.24
Total	100,096	444.79	32.18	[1] 476.96

[1] Includes claims through May 31, 1985.

TABLE 12.—ESTIMATED TRANSFER OF IV–E FOSTER CARE FUNDS TO IV–B CHILD WELFARE SERVICE—FISCAL YEAR 1985

[Dollars in thousands]

State	Estimated transfer
Total	$30,240
Alabama	0
Alaska	150
Arizona	0
Arkansas	400
California	1,720
Colorado	1,030
Connecticut	0
Delaware	240
District of Columbia	0
Florida	590
Georgia	0
Hawaii	400

TABLE 12.—ESTIMATED TRANSFER OF IV–E FOSTER CARE FUNDS TO IV–B CHILD WELFARE SERVICE—FISCAL YEAR 1985—Continued

[Dollars in thousands]

State	Estimated transfer
Idaho	$260
Illinois	0
Indiana	1,710
Iowa	230
Kansas	970
Kentucky	980
Louisiana	0
Maine	570
Maryland	1,600
Massachusetts	0
Michigan	0
Minnesota	0
Mississippi	400
Missouri	1,270
Montana	0
Nebraska	0
Nevada	190
New Hampshire	0
New Jersey	0
New Mexico	60
New York	6,500
North Carolina	230
North Dakota	0
Ohio	0
Oklahoma	0
Oregon	1,120
Pennsylvania	4,730
Rhode Island	0
South Carolina	0
South Dakota	120
Tennessee	2,130
Texas	0
Utah	40
Vermont	0
Virginia	2,150
Washington	380
West Virginia	0
Wisconsin	0
Wyoming	70

Source: OHDS, DHHS.

TABLE 13.—TITLE IV–E FOSTER CARE EXPENDITURES FISCAL YEAR 1981–1984

[Dollars in millions]

Year	Total Federal expenditures [1]	Maintenance payments	Administrative expenditures [2]
1981	304	272	32
1982	351	295	56
1983	364	256	108
1984	445	298	147

[1] Total Federal expenditures include administrative and training costs and maintenance payments. It excludes transfers.
[2] Includes training expenditures.

TABLE 14.—FEDERAL FOSTER CARE EXPENDITURES UNDER TITLE IV–E: FISCAL YEAR 1983

[Dollars in millions]

Name of State	Maintenance payments	Administration and training	Total	Administration training as percent of total
Alabama	2.12	0.08	2.2	3.64
Alaska	.22	.....	.22	0
Arizona	1.03	.56	1.59	35.22
Arkansas	.49	.84	.53	7.55
California	49.75	35.24	84.99	41.46
Colorado	1.2	.04	1.24	3.23
Connecticut	1.96	.82	2.78	29.50
Delaware	.34	.02	.36	5.56
District of Columbia	5.45	.81	6.26	12.94
Florida	2.31	.15	2.46	6.10
Georgia	3.36	3.65	7.01	52.07
Hawaii	.02	.....	.02	0
Idaho	.23	.02	.25	8.00
Illinois	5.6	.26	5.86	4.44
Indiana	.88	.....	.88	0
Iowa	1	.7	1.7	41.18
Kansas	2.77	.53	3.3	16.06
Kentucky	1.9	.08	1.98	4.04
Louisana	4.07	1.02	5.09	20.04
Maine	1.87	.83	2.7	30.74

TABLE 14.—FEDERAL FOSTER CARE EXPENDITURES UNDER TITLE IV–E: FISCAL YEAR 1983—Continued

[Dollars in millions]

Name of State	Maintenance payments	Administration and training	Total	Administration training as percent of total
Maryland	2.77	.17	2.94	5.78
Massachusetts	2.63	.58	3.21	18.07
Michigan	20.54	7.69	28.23	27.24
Minnesota	3.49	1.23	4.72	26.06
Mississippi	.34	.06	.4	15.00
Missouri	2.01	.13	2.14	6.07
Montana	1.09	.31	1.4	22.14
Nabraska	1.3	.34	1.64	20.73
Nevada	.36	.03	.39	7.69
New Hampshire	.62	.42	1.04	40.38
New Jersey	2.94	.07	3.01	2.33
New Mexico	.37	.03	.4	7.50
New York	83.27	35.57	121.84	31.66
North Carolina	1.56	.16	1.72	9.30
North Dakota	.85	.07	.92	7.61
Ohio	4.44	.32	4.76	6.72
Oklahoma	2.12	1.98	4.1	48.29
Oregon	3.57	2.02	5.59	36.14
Pennsylvania	12.86	2.12	14.98	14.15
Rhode Island	.8	.....	.8	0
South Carolina	.69	.09	.78	11.54
South Dakota	.64	.02	.66	3.03
Tennessee	1.59	.06	1.65	3.64
Texas	5.25	.43	5.68	7.57
Utah	.41	.22	.63	34.92
Vermont	.8	.77	1.57	49.04
Virginia	2.47	.48	2.95	16.27
Washington	2.3	1.73	4.03	42.93
West Virginia	1.35	.....	1.35	0
Wisconsin	6.02	2.69	8.71	30.88
Wyoming	.11	.....	.11	0
Total	256.13	187.64	363.77	29.59

TABLE 15.—CHILD WELFARE SERVICES FUNDING

	State receives its share of—
In the first 2 years in which the full $266 million appropriated, and	
State does not meet partial implementation standard.	$141.0 million.
State meets partial implementation standard	$266.0 million plus any foster care funds not used within its mandatory cap.
If less than $266 million appropriated, and	
State does not meet partial implementation standard.	Up to $141 million from amount appropriated and from any foster care funds not used within its voluntary cap.
State meets partial implementation standard (but not full standard) and has not received its share of $266 million for 2 years, or State meets full standard.	Up to $266 million from amount appropriated and from any foster care funds not used within its voluntary cap.
State meets partial implementation standard (but not full standard) and has received its share of $266 million for 2 years.	Its share of amount appropriated; may no longer transfer unused foster care funds within its voluntary cap.
After full $266 million has been appropriated for 2 consecutive years, and	
State does not meet full implementation standard.	$55.6 million.
State meets full implementation standard	$266.0 million plus any foster care funds not used within its mandatory cap.

Partial implementation requirements: Inventory of children in foster care; statewide foster care information system; case review system for each child in foster care; service program for permanent placement of children.
Full implementation requirements: Partial implementation requirements, plus Preplacement Preventive Service Program to help children remain with their families.

2. Children voluntarily placed in foster care

The 1980 legislation allows Federal matching payments under the AFDC foster care program to be made for a limited period (originally through October 1, 1983 and later extended to October 1, 1985) for children removed from the home under a voluntary placement agreement, in lieu of previous law which permitted matching only when placement was by judicial determination. To be eligible to receive funds for voluntarily placed children, States have to implement the foster care protections and procedures required for the receipt of the additional title IV-B funds, i.e., the foster care inventory, information system, a system for case review, and a preventive and reunification services programs. A judicial determination that voluntary placement is in the best interests of the child is required within 6 months. There are also certain specifications covering what must be included in the voluntary agreement. DHHS is to report annually to Congress on the number of children in the

AFDC foster care program under voluntary placement agreements, on the reasons for such placements, and on the extent to which such placements have contributed to the objectives of the program.

According to DHHS, no State claims for reimbursements for children voluntarily placed were made in FY 1981, 6 were made in FY 1982, and 13 were made in FY 1983. Twenty-two States are expected to claim Federal funds for voluntarily placed children for FY 1984, according to DHHS. Table 16 shows the Federal share of claims for voluntary placement assistance under title IV-E foster care for FY 1982 and FY 1983.

TABLE 16.—FEDERAL SHARE OF CLAIMS FOR VOLUNTARY PLACEMENT ASSISTANCE UNDER TITLE IV-E FOSTER CARE [1]

[Dollars in thousands]

	Fiscal year 1982 claims [2]	Fiscal year 1983 claims [2]	1983 number of cases
Alabama [3]	0	$19,694	(4)
Arizona	$62,903	50,433	95
Connecticut	0	623,444	1,000
District of Columbia [3]	0	85,846	(4)
Florida	0	30,024	120
Iowa	0	18,856	67
Kentucky	0	56,697	28
Minnesota	23,278	292,985	784
Mississippi	1,303	12,868	15
Montana	51,665	243,110	(4)
North Carolina [3]	0	20,168	(4)
Vermont	40,514	80,345	41
Virginia	25,953	40,020	42
Total	205,616	1,574,490	

[1] Based on information available as of Nov. 3, 1983, for fiscal year 1982 and Apr. 13, 1984, for fiscal year 1983. States have up to 2 years to submit claims.

[2] Includes maintenance, administration, and training.

[3] Claimed after request for information from States was made.

[4] Information not provided.

Source: DHHS 1984 report to Congress on Voluntary Placements Under Title IV-E.

3. Other protections for children in foster care

The 1980 legislation also strengthened the State plan requirements for eligibility for payments for IV-E foster care or adoption assistance to emphasize protections for foster care children. The States must establish by law specific goals as to the maximum number of children who will be in foster care more than 24 months, beginning in FY 1984, and describe the steps they will take to meet the goals. They are also to establish a case plan and system of reviews to be done every 6 months for every child, including a written document describing the child's placement and its appropriateness; a plan, if necessary, for compliance with judicial determination requirements; and a plan of services to be pro-

vided either to improve family conditions and to facilitate return of the child or to provide for permanent placement or otherwise serve the needs of the child while in foster placement.

After October 1, 1983, the State case plans have to provide that reasonable efforts are made in each case to prevent or eliminate the need for removal of the child from his home for foster care placement and that reasonable efforts will be made to return the child to his home. (As of the same date, eligibility for matching in cases involving a judicial placement requires a determination by the court that these reasonable efforts have been made.) The law also provided sanctions for non-compliance with the State plan requirements and mandated an independent audit of State AFDC foster care, adoption assistance, and child welfare services programs at least every three years and an evaluation by the State agency periodically of the standards and appropriateness of the costs of foster care and adoption assistance programs in the State.

DHHS indicates States have strengthened their case plan and review systems, as evidenced by such factors as timeliness of periodic reviews and dispositional hearings, hearing procedures, and hearings resulting in permanent plans for the child (see table 17). Data from the OCR, VCIS and Maximus studies suggest that, overall, the duration of time a child spends in foster care may be decreasing (see tables 18 and 19). On a State by State basis, as shown in table 19, these data show very great changes in both directions. This may suggest that caution should be exercised in comparing the two sets of data. Based on VCIS and Maximus data, DHHS estimates that there may be 40,000 children in IV-E foster care who have been there for more than 24 months.

TABLE 17.—REPORTED STATE RESPONSE TO P.L. 96-272, DISPOSITIONAL HEARING REQUIREMENT: COMPARISON OF 1980 WITH 1982

[50 States reporting, in percent]

	1980	1982	Difference
Hearing takes place within 18 months of original placement..	37	86	+49
Hearing covers all children in foster care 18 months or longer under supervision of the State agency.....	24	66	+42
Hearing held by a court or a body appointed or approved by the court.....	58	98	+40
Hearing results in a decision on what should be the permanent plan for the child.....	46	82	+36
Hearings are held "periodically thereafter" as long as the child remains in foster care.....	44	74	+30
Hearing proceedings include procedural safeguards to protect the rights of interested parties..... ..	68	98	+30

Source: DHHS cited to Margaret Cahalan, Ronna Cook, and Diane Dodson, Westat, Inc., Comparative Study of State Case Review Systems Phase II: Dispositional Hearings, Volumes I and II, 1983; contract No. HHS-105-82-C-009.

TABLE 18.—DURATION OF FOSTER CARE PLACEMENT

[In percent]

Duration	1980 (Office of Civil Rights)	1982 September (Voluntary Cooperative Information System)	1982 December (Maximus)
2 years or more (percent)	53	52	47
Less than 1 year (percent)	33	35	38
1 to 3 years (percent)	28	27	31
3 to 5 years (percent)	14	16	13
5 years or more (percent)	25	22	18
Median [1] (months)	27	25	21
Mean [1] (months)	42	40	35

[1] Based on data grouped in categories for comparability with OCR, 1980.

Source: ACYF Child Welfare Research Notes, No. 1.

TABLE 19.—MEDIAN DURATION OF TIME IN FOSTER CARE

[In months]

	1980 Office of Civil Rights survey median	Fiscal year 1982 survey median [1]	Change in months
United States	31.0	25.0	−6.0
Alabama	26.7	25.9	−.8
Arizona	23.8	8.5	−15.3
Arkansas	24.7	23.5	−1.2
California	22.8	18.7	−4.1
Colorado	16.1	17.0	+.9
Connecticut	9.2	29.8	+20.6
Georgia	25.2	25.1	−.1
Hawaii	22.6	20.6	−2.0
Idaho	10.4	9.0	−.6
Iowa	22.3	9.0	−13.3
Louisiana	40.0	30.9	−9.1
Maine	34.3	37.6	+3.3
Maryland	59.5	41.8	−17.7
Massachusetts	23.0	25.4	+2.4
Mississippi	17.8	26.9	+9.1
Missouri	27.6	22.6	−5.0
Montana	19.9	11.9	−8.0
Nebraska	15.4	26.3	+10.9
Nevada	11.6	14.4	+2.8
New Mexico	18.8	22.2	+3.4

TABLE 19.—MEDIAN DURATION OF TIME IN FOSTER CARE—Continued

[In months]

	1980 Office of Civil Rights survey median	Fiscal year 1982 survey median [1]	Change in months
New York	32.6	20.6	−12.0
North Dakota	21.8	17.9	−3.9
Ohio	27.4	20.5	−6.9
Oregon	14.2	7.0	−7.2
Pennsylvania	28.1	32.1	+4.0
South Carolina	25.7	22.3	−3.4
South Dakota	26.9	16.6	−10.3
Tennessee	30.5	16.8	−13.7
Texas	25.4	16.0	−9.4
Utah	12.2	8.4	−3.8
Vermont	23.8	23.9	+.1
Virginia	39.1	36.3	−2.8
West Virginia	26.4	24.7	−1.7
Wisconsin	9.8	24.2	+14.4
Wyoming	11.2	11.0	−.2

[1] Voluntary Cooperative Information System Fiscal Year 1982 data based on 35 States.

Source: DHHS July 1984 Report to Congress on Title IV–E.

Data from DHHS, calculated from the VCIS data on selected States, show the percentage of all foster care children believed to be in care for 24 months or more for FY 1982 (see table 20).

TABLE 20.—PERCENTAGE OF CHILDREN IN CARE FOR 24 MONTHS OR MORE [1], FISCAL YEAR 1982

State	Total number in care (VCIS Data) [2]	Duration of care 24 months or more (percentage)
Alabama	4,366	49
Arkansas	1,473	35
Arizona	1,144	19
California	24,868	39
Colorado	2,943	36
Georgia	6,106	26
Hawaii	581	41
Idaho	737	13
Iowa	2,981	24
Louisiana	6,447	56
Maine	2,128	61

TABLE 20.—PERCENTAGE OF CHILDREN IN CARE FOR 24 MONTHS OR MORE [1], FISCAL YEAR 1982—Continued

State	Total number in care (VCIS Data) [2]	Duration of care 24 months or more (percentage)
Maryland	7,013	61
Massachusetts	7,947	56
Mississippi	1,517	49
Missouri	6,194	50
Montana	907	29
Nebraska	1,517	18
Nevada	1,139	53
New Mexico	942	64
New York	32,416	50
North Dakota	713	38
Ohio	17,194	41
Oregon	4,898	5
Pennsylvania	11,450	54
South Carolina	2,925	47
South Dakota	720	41
Tennessee	3,852	37
Texas	5,409	33
Utah	1,415	13
Vermont	761	47
Virginia	6,990	61
West Virginia	1,857	47
Wyoming	238	31

[1] Selected States.
[2] Number in care on the last day of the reporting period.
Source: ACYF, Child Welfare Research Notes No. 4, March 1984.

4. Clarification of eligible IV-E foster care services and recipients

The 1980 Adoption Assistance and Child Welfare Act also clarified that foster care maintenance payments are intended to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, personal incidentals, liability insurance for the child, and reasonable travel to the child's home for visits. Administrative and operational costs necessary to provide the above items are also allowed for institutional care.

The legislation also provides that AFDC foster care payments may be made for children in public institutions, whereas previously the program was limited to children in private nonprofit institutions or foster family homes. These public institutions may accommodate up to 25 children. Detention facilities, forestry camps,

training schools, or other facilities operated primarily for detention of delinquents are not considered eligible institutions.

The Department indicates it does not have data on the costs of institutional versus family foster care.

THE ADOPTION ASSISTANCE PROGRAM

The Adoption Assistance and Child Welfare Act of 1980 also created and permanently authorized a new entitlement program for adoption assistance under title IV-E. Under the legislation, States were required to establish programs by October 1, 1982, to provide adoption assistance payments for parents adopting AFDC- or SSI-eligible children with "special needs", for which Federal matching funds based on the Medicaid matching rate could be claimed. A child with special needs is defined as one with a specific condition, such as ethnic background, age, membership in a sibling group, or mental or physical handicap, which prevents placement without assistance payments. Before designating a child as having special needs, the State must determine that he cannot or should not be returned to his family, and that reasonable efforts have been made to place him without providing assistance. The adoption assistance payments are to be made pursuant to a binding adoption assistance agreement between concerned parties covering the amount of the payments to be made and additional services or assistance that is to be provided. The amount of the payments is determined between the parents and the agency, based on the circumstances of the adoptive parents and the needs of the child, but cannot exceed the amount the child could have received under AFDC foster care. The amounts may be adjusted based on changed circumstances. The payments may continue until the child is 18; if the child is mentally or physically handicapped, payments may continue until age 21 at State option. The legislation also provides that children receiving adoption assistance payments are deemed eligible for medical assistance through the Medicaid program and services under title XX in the State in which they were living.

Under the legislation, DHHS was to assist States in developing interstate compacts regarding adoption assistance agreements to facilitate interstate moves by such children. Effective October 1, 1983, States were required, through such compacts or otherwise, to provide for continuing adoption assistance when the family moved to another State. DHHS was also authorized to provide technical assistance to the States and to evaluate the effectiveness of the new foster care provisions and the adoption assistance program and report to Congress by October 1, 1983. This report was submitted in June, 1984.

In FY 1981, six States participated in the adoption assistance program, claiming reimbursements of approximately $486,483 for placements for 289 children. In FY 1984, 49 States claimed reimbursements of approximately $25.6 million for placements for 11,770 children (see table 21 for a State-by-State breakdown for FY 1984).

TABLE 21.—TITLE IV–E ADOPTION ASSISTANCE CLAIMS AND CHILDREN SERVED, FISCAL YEAR 1984

[Dollars in thousands]

	Fiscal year plan approved	Fiscal year 1984	
		Average number of children per month	Claims per year
Alabama	1983	57	$83.21
Alaska	1983	NA	NA
Arizona	1981	150	337.32
Arkansas	1981	58	125.14
California	1983	423	4,125.22
Colorado	1982	51	66.64
Connecticut	1983	83	101.46
Delaware	1983	4	4.26
District of Columbia	1983	59	169.02
Florida	1982	474	845.71
Georgia	1981	15	24.23
Hawaii	1983	3	3.42
Idaho	1982	10	22.74
Illinois	1982	532	765.53
Indiana	1983	119	125.68
Iowa	1982	123	120.34
Kansas	1982	99	103.33
Kentucky	1982	92	163.97
Louisiana	1983	55	83.31
Maine	1983	59	96.41
Maryland	1981	232	266.47
Massachusetts	1983	144	357.80
Michigan	1981	1,646	3,058.26
Minnesota	1981	192	372.91
Mississippi	1981	130	144.72
Missouri	1981	392	165.99
Montana	1982	13	50.31
Nebraska	1981	111	168.22
Nevada	1981	27	11.63
New Hampshire	1982	32	41.89
New Jersey	1983	241	390.47
New Mexico	1982	NA	60.88
New York	1982	4,422	10,387.80
North Carolina	1982	146	120.62
North Dakota	1982	29	79.48
Ohio	1983	375	334.64
Oklahoma	1983	33	35.83

TABLE 21.—TITLE IV–E ADOPTION ASSISTANCE CLAIMS AND CHILDREN SERVED, FISCAL YEAR 1984—Continued

[Dollars in thousands]

	Fiscal year plan approved	Fiscal year 1984	
		Average number of children per month	Claims per year
Oregon	1981	76	41.86
Pennsylvania	1983	NA	422.01
Rhode Island	1982	22	31.40
South Carolina	1982	46	97.41
South Dakota	1982	19	21.97
Tennessee	1982	93	141.42
Texas	1981	106	149.88
Utah	1982	16	31.21
Vermont	1982	22	55.38
Virginia	1982	145	192.68
Washington	1981	266	293.44
West Virginia	1982	34	86.34
Wisconsin	1982	293	573.86
Wyoming	1983	NA	NA
Total		11,770	25,573.66

[1] Based on information available as of September 15, 1983. Includes maintenance, administration and training.

[2] Includes both estimates and claims.

[3] Because Idaho's claim included only administrative costs for FY 1982, the average number of children per month was not reported.

Source: DHHS July 1984 Report to Congress on Title IV–E.

Table 22 shows the estimated State claims for adoption assistance for fiscals year 1984–86.

TABLE 22.—ADOPTION ASSISTANCE ESTIMATED STATE CLAIMS, FISCAL YEARS 1984–86

State	1984	1985	1986
Total	$24,243,343	$32,267,889	$41,947,702
Alabama	83,705	111,412	144,281
Alaska	NA	NA	NA
Arizona	343,145	456,726	593,744
Arkansas	133,574	177,786	231,122
California	4,169,128	5,549,109	7,213,842
Colorado	72,625	96,664	125,663
Connecticut	95,787	127,493	165,741
Delaware	5,043	6,713	8,727
District of Columbia	160,805	214,032	278,241

TABLE 22.—ADOPTION ASSISTANCE ESTIMATED STATE CLAIMS, FISCAL YEARS 1984–86—Continued

State	1984	1985	1986
Florida	783,727	1,043,141	1,356,084
Georgia	22,506	29,956	38,942
Hawaii	3,371	4,487	5,833
Idaho	42,033	55,947	72,730
Illinois	664,151	883,958	1,149,180
Indiana	133,005	177,030	230,139
Iowa	117,144	155,919	202,695
Kansas	107,514	143,101	186,031
Kentucky	177,263	235,937	306,718
Louisiana	103,950	138,357	179,864
Maine	97,888	130,289	169,376
Maryland	265,962	353,996	460,194
Massachusetts	326,934	435,149	565,694
Michigan	3,095,771	4,120,471	5,356,613
Minnesota	366,325	487,578	633,852
Mississippi	153,664	204,527	265,885
Missouri	78,897	105,012	136,515
Montana	50,665	67,435	87,665
Nebraska	168,531	224,314	291,608
Nevada	11,160	14,854	19,310
New Hampshire	39,577	52,676	68,479
New Jersey	300,317	399,722	519,638
New Mexico	60,880	NA	NA
New York	9,272,185	12,341,278	16,043,661
North Carolina	118,722	158,019	205,425
North Dakota	75,928	101,060	131,378
Ohio	334,197	444,816	578,261
Oklahoma	33,449	44,588	57,964
Oregon	39,164	52,127	67,765
Pennsylvania	353,663	470,726	611,944
Rhode Island	223,799	297,876	387,239
South Carolina	59,061	78,611	102,194
South Dakota	21,884	29,128	37,866
Tennessee	153,430	204,215	265,480
Texas	149,430	198,891	258,559
Utah	35,869	47,742	62,064
Vermont	26,151	34,807	45,249
Virginia	183,489	244,223	317,490
Washington	382,831	509,548	662,413
West Virginia	21,681	28,857	37,515

TABLE 22.—ADOPTION ASSISTANCE ESTIMATED STATE CLAIMS, FISCAL YEARS 1984–86—Continued

State	1984	1985	1986
Wisconsin	584,191	777,558	1,010,828
Wyoming	NA	NA	NA

Source: Office of Human Development Services.

A model interstate compact to facilitate interstate moves by children adopted under the adoption assistance program was developed by the American Public Welfare Association (APWA) under contract with DHHS by October 1983, as required by the 1980 act. It has not yet been, however, joined by individual States. According to staff at the Administration for Childern, Youth and Families, Bureau, States require legislative authority to enter into such compacts. The data indicate that nine States (Arkansas, Georgia, Kansas, Maine, Minnesota, Nebraska, New Mexico, Tennessee, and Utah) have passed the requisite enabling language; one State (Vermont) indicates it already had legislative authority for entering into compacts; and six States (Colorado, Delaware, Louisiana, Missouri, New Hampshire, and Wisconsin) are considering such legislation in 1985. The remaining States lack this legislative authority.

An American Public Welfare Association survey done in June 1984 indicates that slightly more than 1,000 children under the adoption assistance program are outside the State in which the adoption occurred.

Under current law, adoptive children remain eligible for Medicaid only so long as they receive title IV–E adoption assistance payments. According to DHHS, it appears that States have been utilizing token payments of adoption assistance to allow children to remain in the adoption assistance program to continue their eligibility for Medicaid payments. Although DHHS has no data on the extent to which token payments are used (i.e., the number of States or the number of children involved), the Department has funded a study in five States to obtain data on this situation. They anticipate the study will be completed in September 1985.

There are no comprehensive data on the number of children free for adoption who have special needs. The American Public Welfare Association has estimated, based on reports to the VCIS, that between 45,000 and 48,000 children were free for adoption in FY 1982, that 22,000–24,000 children had adoptions finalized that year, and that 18,000–20,000 children legally free for adoption were still awaiting placement at the end of the year. Reports to VCIS from 19 States (covering 8,207 children awaiting adoption in FY 1982) indicated that 58.5 percent had one or more special needs; 37.4 percent had no known special needs; and the status of 4.1 percent was unknown or unreported. Data from reports from five States at the end of FY 1982 indicated that 38.5 percent of the children with no known special needs were still awaiting adoption had no known special needs, while 61.5% of children awaiting adoption had one or more special needs. The adoption rate for those with special

needs, however, was slightly higher than for those with no known special needs (VCIS Statistical Bulletin No. 1, Feb. 1985).

Proposals Relating to Title IV-E Foster Care and Adoption Assistance

Legislation to extend some of the provisions in the title IV-E foster care program has been introduced in the 99th Congress (S. 18). In addition, the Administration (S. 1266) is proposing amendments to some of the AFDC foster care and adoption assistance provisions. The following is a summary of S. 18 and S. 1266.

S. 18

S. 18 (introduced by Senator Moynihan and others) would extend the mandatory ceiling on IV-E foster care expenditures for one additional year, through FY 1986, if appropriations for title IV-B child welfare services are $266 million that year; and would continue through FY 1986 to allow States, if the mandatory ceiling is in effect, to transfer unused foster care funds under the ceiling to child welfare services under the same conditions as exist in current law. It would also allow States to continue to operate under a voluntary ceiling through FY 1986 if appropriations do not reach the trigger level, with the same restrictions on transferring unused foster care funds as exist in current law.

S. 18 would also extend for one year, through FY 1986, the existing temporary provision allowing AFDC foster care payments to be made for certain children voluntarily placed in foster care by their parents.

S. 1266

Senator Armstrong introduced S. 1266 on June 10, 1985. It contains five major changes in the title IV-E foster care and adoption assistance programs: (1) providing a bonus to States for reducing the number of children in foster care more than 24 months; (2) reducing the level of child welfare services (title IV-B) appropriations necessary to trigger a mandatory ceiling on foster care expenditures, freezing foster care expenditures in FY 1986 with a new formula for computing the ceiling for years after 1986, and adjusting the formula for allocating the foster care ceiling among the States; (3) allowing for Medicaid eligibility for children with special needs who are placed for adoption even though no adoption assistance payments are made; (4) limiting the time States would have to claim reimbursements under title IV-E to one year after expenditure; and (5) making permanent the present temporary provisions relating to IV-E foster care payments for children placed voluntarily in foster care.

1. Bonus for reducing number of children in long-term foster care

S. 1266 would provide that for each of fiscal years 1988-1990, States that reduce the total number of children in IV-E foster care more than 24 months (whether or not the months are consecutive) by more than 3 percent from the previous fiscal year are to receive $3000 per child for each child removed from long-term foster care

that year. Children removed to other foster care under the supervision of the State or local government or who attain the age of majority are not to be counted in determining the reductions in the foster care population.

The proposal would allow the Secretary to determine the number of children who have been in long-term foster care by averaging the number of children who have been in foster care for more than 24 months on November 15 (or other specified date) and the number who have been in foster care more than 24 months as of August 15 (or other specified date). States would be allowed to use the bonus payments for any services authorized under title IV-E foster care or adoption assistance, title IV-B child welfare services, or under title XX (the social services block grant program).

2. Limits to States' title IV-E foster care entitlements

The Administration is proposing to extend, effective October 1, 1985, the mandatory ceiling on the AFDC foster care program in years when title IV-B appropriations are at least $200 million. This is the amount appropriated for fiscal year 1985 and recommended by the Administration for fiscal year 1986.

The provision for and uses made of the mandatory ceiling (as well as the voluntary ceiling) are discussed in the current law section of this document. The mandatory ceiling was contingent on a child welfare services appropriation of $266 million in fiscal year 1983-85; the provision for a mandatory ceiling expires at the end of FY 1985. The Administration also proposes to eliminate the present requirement that the mandatory ceiling applies only if the appropriation is made in advance of the fiscal year to which the ceiling would apply. The proposal would continue to allow States to operate under a voluntary ceiling in years when appropriations for title IV-B do not reach the trigger level of $200 million.

In addition, the Administration proposes to modify for fiscal year 1986 and subsequent years, the method for determining the funds available for foster care.

In FY 1986, funding for the IV-E foster care program would be limited to $485.4 million (the estimated expenditure level for FY 1985, including claims for transfers to title IV-B). Each State's share of the funds would be an amount equal to its share of foster care funds for FY 1984 (including funds transferred to title IV-B) based on expenditure reports for FY 1984 received by April 30, 1985 and approved by September 30, 1985.

For FY 1987 and succeeding years, if Congress appropriates more than $200 million for title IV-B, States' allotments would be limited to the FY 1984 amounts, allowing for claims for that fiscal year made after April 30, 1985, with annual adjustments for inflation by the lower of 5 percent or the Consumer Price Index. Under the Administration's economic assumptions, this would produce a foster care ceiling of $485 million in FY 1986, $533 million in FY 1987, and $555 million in FY 1988.

3. Medicaid eligibility for adoption assistance children

The Administration's proposal would provide that children adopted under the adoption assistance program be deemed eligible

to receive Medicaid in the State where the child is living even if cash adoption assistance payments are not made.

4. One-year time limit for submitting claims under title IV-E

The Administration proposes to reduce the time States are allowed to claim payments for expenditures under title IV-E from two years to one year, effective October 1, 1985.

5. Permanent authority to fund children placed voluntarily in foster care

The Administration proposes to make permanent the present temporary provisions (which expire September 30, 1985) allowing title IV-E maintenance payments to be made for certain children placed voluntarily in foster care and to repeal the requirement for an annual report to Congress on the status of voluntary foster care placements.

APPENDIX A

Excerpts from the Social Security Act—Part B, Child Welfare Services and Part E, Federal Payments for Foster Care and Adoption Assistance

PART B—CHILD WELFARE SERVICES[166]

APPROPRIATION

SEC. 420. [42 U.S.C. 620] (a) For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child welfare services, there is authorized to be appropriated for each fiscal year the sum of $266,000,000.

(b) Funds appropriated for any fiscal year pursuant to the authorization contained in subsection (a) shall be included in the appropriation Act (or supplemental appropriation Act) for the fiscal year preceding the fiscal year for which such funds are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence[167] shall apply notwithstanding the fact that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

ALLOTMENTS TO STATES

SEC. 421. [42 U.S.C. 621] (a) The sum appropriated pursuant to section 420 for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary as follows: He shall first allot $70,000 to each State, and shall then allot to each State an amount which bears the same ratio to the remainder of such sum as the product of (1) the population of the State under the age of twenty-one and (2) the allotment percentage of the State (as determined under this section) bears to the sum of the corresponding products of all the States.

(b) The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

(c) The allotment percentage for each State shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation.

(d) For purposes of this section, the term "United States" means the fifty States and the District of Columbia.

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[166] See P.L. 95-608, "Indian Child Welfare Act of 1978", §201(b), with respect to Indian child welfare.

[167] P.L. 98-369, §2663(c)(8), struck out a comma, effective July 18, 1984, but this amendment shall not be construed as changing or affecting any right, liability, status, or interpretation which existed under this provision before that date.

STATE PLANS FOR CHILD WELFARE SERVICES[168]

SEC. 422. [42 U.S.C. 622] (a) In order to be eligible for payment under this part, a State must have a plan for child welfare services which has been developed jointly by the Secretary and the State agency designated pursuant to subsection (b)(1), and which meets the requirements of subsection (b).

(b) Each plan for child welfare services under this part shall—

(1) provide that (A) the individual or agency designated pursuant to section 2003(d)(1)(C) to administer or supervise the administration of the State's services program will administer or supervise the administration of the plan (except as otherwise provided in section 103(d) of the Adoption Assistance and Child Welfare Act of 1980[169]), and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering the plan, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child welfare services;

(2) provide for coordination between the services provided for children under the plan and the services and assistance provided under title XX, under the State plan approved under part A of this title, under the State plan approved under part E of this title, and under other State programs having a relationship to the program under this part, with a view to provision of welfare and related services which will best promote the welfare of such children and their families;

(3) provide that the standards and requirements imposed with respect to child day care under title XX shall apply with respect to day care services under this part, except insofar as eligibility for such services is involved;

(4) provide for the training and effective use of paid paraprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan, and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency;

(5) contain a description of the services to be provided and specify the geographic areas where such services will be available;

(6) contain a description of the steps which the State will take to provide child welfare services and to make progress in—

(A) covering additional political subdivisions,

(B) reaching additional children in need of services, and

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[168]P.L. 96-272, §103(a), amended §422 in its entirety effective June 17, 1980, except that in the case of Guam, Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, §422(b)(1) shall be deemed to read as follows:

"(1) provide that (A) the State agency designated pursuant to section 402(a)(3) to administer or supervise the administration of the plan of the State approved under part A of this title will administer or supervise the administration of such plan for child welfare services, and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering such plan for child welfare services, the organizational unit in such State or local agency established pursuant to section 402(a)(15) will be responsible for furnishing such child welfare services;".

[169]P.L. 96-272.

(C) expanding and strengthening the range of existing services and developing new types of services,

along with a description of the State's child welfare services staff development and training plans;

(7) provide, in the development of services for children, for utilization of the facilities and experience of voluntary agencies in accordance with State and local programs and arrangements, as authorized by the State; and

(8) provide that the agency administering or supervising the administration of the plan will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require.

PAYMENT TO STATES

SEC. 423. [42 U.S.C. 623] (a) From the sums appropriated therefor and the allotment under this part, subject to the conditions set forth in this section and in section 427, the Secretary shall from time to time pay to each State that has a plan developed in accordance with section 422 an amount equal to 75 per centum of the total sum expended under the plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child welfare services.

(b) The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of this section.

(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

(c)(1) No payment may be made to a State under this part, for any fiscal year beginning after September 30, 1979, with respect to State expenditures made for (A) child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, (B) foster care maintenance payments, and (C) adoption assistance payments, to the extent that the Federal payment with respect to those expenditures would exceed the total amount of the Federal payment under this part for fiscal year 1979.

(2) Expenditures made by a State for any fiscal year which begins after September 30, 1979, for foster care maintenance payments shall be treated for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care maintenance payments constituted child welfare services of a type to which the limitation imposed by paragraph (1) does not apply; except that the amount payable to the State with respect to expenditures made for other child welfare services and for foster care maintenance payments during any such year shall not exceed 100 per centum of the amount of the expenditures made for child welfare

services for which payment may be made under the limitation imposed by paragraph (1) as in effect without regard to this paragraph.

(d) No payment may be made to a State under this part in excess of the payment made under this part for fiscal year 1979, for any fiscal year beginning after September 30, 1979, if for the latter fiscal year the total of the State's expenditures for child welfare services under this part (excluding expenditures for activities specified in subsection (c)(1)) is less than the total of the State's expenditures under this part (excluding expenditures for such activities) for fiscal year 1979.

REALLOTMENT

SEC. 424. [42 U.S.C. 624] The amount of any allotment to a State under section 421 for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in section 422 shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under section 421 and (2) will be able to use such excess amounts during such fiscal year. Such reallotments shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallotted to a State shall be deemed part of its allotment under section 421.

DEFINITIONS

SEC. 425. [42 U.S.C. 625] (a)(1) For purposes of this title, the term "child welfare services" means public social services which are directed toward the accomplishment of the following purposes: (A) protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; (B) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; (C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (D) restoring to their families children who have been removed, by the provision of services to the child and the families; (E) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (F) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.

(2) Funds expended by a State for any calendar quarter to comply with the statistical report required by section 476(b), and funds expended with respect to nonrecurring costs of adoption proceedings in the case of children placed for adoption with respect to whom assistance is provided under a State plan for adoption assistance

approved under part E of this title, shall be deemed to have been expended for child welfare services.

(b) For other definitions relating to this part and to part E of this title, see section 475 of this Act.

RESEARCH, TRAINING, OR DEMONSTRATION PROJECTS

SEC. 426. [42 U.S.C. 626] (a) There are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine—

(1) for grants by the Secretary—

(A) to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or child-welfare activities, for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of child welfare;

(B) to State or local public agencies responsible for administering, or supervising the administration of, the plan under this part, for projects for the demonstration of the utilization of research (including findings resulting therefrom) in the field of child welfare in order to encourage experimental and special types of welfare services; and

(C) to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of child welfare, including traineeships with such stipends and allowances as may be permitted by the Secretary; and

(2) for contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research, special projects, or demonstration projects relating to such matters.

(b) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

FOSTER CARE PROTECTION REQUIRED FOR ADDITIONAL FEDERAL PAYMENTS

SEC. 427. [42 U.S.C. 627] (a) If, for any fiscal year after fiscal year 1979, there is appropriated under section 420 a sum in excess of $141,000,000, a State shall not be eligible for payment from its allotment in an amount greater than the amount for which it would be eligible if such appropriation were equal to $141,000,000, unless such State—

(1) has conducted an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory, and determined the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or

should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship; and

(2) has implemented and is operating to the satisfaction of the Secretary—

(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding twelve months can readily be determined;

(B) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State; and

(C) a service program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship.

(b) If, for each of any two consecutive fiscal years after the fiscal year 1979, there is appropriated under section 420 a sum equal to $266,000,000, each State's allotment amount for any fiscal year after such two consecutive fiscal years shall be reduced to an amount equal to its allotment amount for the fiscal year 1979, unless such State—

(1) has completed an inventory of the type specified in subsection (a)(1);

(2) has implemented and is operating the program and systems specified in subsection (a)(2); and

(3) has implemented a preplacement preventive service program designed to help children remain with their families.

(c) Any amounts expended by a State for the purpose of complying with the requirements of subsection (a) or (b) shall be conclusively presumed to have been expended for child welfare services.

PAYMENTS TO INDIAN TRIBAL ORGANIZATIONS

SEC. 428. [42 U.S.C. 628] (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this part directly to an Indian tribal organization within any State which has a plan for child welfare services approved under this part. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

(b) Amounts paid under subsection (a) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

(c) For purposes of this section—

(1) the term "tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body; and

(2) the term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203; 85 Stat. 688)) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status

as Indians, or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.

PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

PURPOSE: APPROPRIATION

SEC. 470. [42 U.S.C. 670] For the purpose of enabling each State to provide, in appropriate cases, foster care and adoption assistance for children who otherwise would be eligible for assistance under the State's plan approved under part A (or, in the case of adoption assistance, would be eligible for benefits under title XVI), there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1980) such sums as may be necessary to carry out the provisions of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under this part.

STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

SEC. 471. [42 U.S.C. 671] (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

(1) provides for foster care maintenance payments in accordance with section 472 and for adoption assistance payments in accordance with section 473;

(2) provides that the State agency responsible for administering the program authorized by part B of this title shall administer, or supervise the administration of, the program authorized by this part;

(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, and under any other appropriate provision of Federal law;

(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the "State agency") will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, C, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

(9) provides that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;

(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance payments to assure their continuing appropriateness;

(12) provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness;

(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1982) for each fiscal year (commencing with the fiscal year which begins on October 1, 1983) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals;

(15) effective October 1, 1983, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home;[304]

(16) provides for the development of a case plan (as defined in section 475(1)) for each child receiving foster care maintenance payments under the State plan and provides for a case review system which meets the requirements described in section 475(5)(B) with respect to each such child; and[305]

(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part.[306]

(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.

FOSTER CARE MAINTENANCE PAYMENTS PROGRAM[307]

SEC. 472. [42 U.S.C. 672] (a) Each State with a plan approved under this part shall make foster care maintenance payments (as

[304] P.L. 98-378, §11(c)(1), struck out "and", effective October 1, 1984, and applicable to collections made on or after that date.

[305] P.L. 98-378, §11(c)(2), struck out the period and substituted "; and", effective October 1, 1984, and applicable to collections made on or after that date.

See P.L. 96-272, "Adoption Assistance and Child Welfare Act of 1980", §102(e), with respect to the Secretary's report to Congress on the number of children placed in foster care pursuant to certain voluntary placement agreements.

[306] P.L. 98-378, §11(c)(3), added paragraph (17), effective October 1, 1984, and applicable to collections made on or after that date.

[307] See P.L. 96-272, "Adoption Assistance and Child Welfare Act of 1980", §102(e), with respect to the Secretary's report to Congress on the number of children placed in foster care pursuant to certain voluntary placement agreements.

defined in section 475(4)) under this part with respect to a child who would meet the requirements of section 406(a) or of section 407 but for his removal from the home of a relative (specified in section 406(a)), if—

(1) the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or[308] was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and (effective October 1, 1983) that reasonable efforts of the type described in section 471(a)(15) have been made;

(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 471, or (B) any other public agency with whom the State agency administering or supervising the administration of the State plan approved under section 471 has made an agreement which is still in effect;

(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial[309] determination referred to in paragraph (1); and

(4) such child—

(A) received aid under the State plan approved under section 402 in or for the month in which such agreement was

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[308]P.L. 96-272, §102(a)(1)(A), inserted "occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or", effective with respect to expenditures made after September 30, 1980, and before October 1, 1983.

P.L. 98-118, §3(a), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(1), effective November 8, 1984, amended that same effective date by striking out "1984" and substituting "1985".

P.L. 96-272, §102(c), provides that P.L. 96-272, §102(a), is effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983, and that from and after October 1, 1983, §472(a)(1) shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

For legislative history comment, see House Conference Report 96-900, pp. 50 and 51, on P.L. 96-272.

[309]P.L. 96-272, §102(a)(1)(B), struck out "a" and substituted "the voluntary placement agreement or judicial", effective with respect to expenditures made after September 30, 1980, and before October 1, 1983.

P.L. 98-118, §3(a), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(1), effective November 8, 1984, amended that same effective date by striking out "1984" and substituting "1985".

P.L. 96-272, §102(c), provides that P.L. 96-272, §102(a), is effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983, and that from and after October 1, 1983, §472(a)(3) shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

For legislative history comment, see House Conference Report 96-900, pp. 50 and 51, on P.L. 96-272.

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entered into or[310] court proceedings leading to the removal of such child from the home were initiated, or

(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living with a relative specified in section 406(a) within six months prior to the month in which such agreement was entered into or[311] such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made.

(b) Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term "foster care maintenance payments" (as defined in section 475(4)).

(c) For the purposes of this part, (1) the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term "child-care institution" means a nonprofit private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as

[310] P.L. 96-272, §102(a)(1)(C), inserted "such agreement was entered into or", effective with respect to expenditures made after September 30, 1980, and before October 1, 1983.

P.L. 98-118, §3(a), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(1), effective November 8, 1984, amended that same effective date by striking out "1984" and substituting "1985".

P.L. 96-272, §102(c), provides that P.L. 96-272, §102(a), is effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983, and that from and after October 1, 1983, §472(a)(4)(A) shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

For legislative history comment, see House Conference Report 96-900, pp. 50 and 51, on P.L. 96-272.

[311] P.L. 96-272, §102(a)(1)(D), inserted "such agreement was entered into or", effective with respect to expenditures made after September 30, 1980, and before October 1, 1983.

P.L. 98-118, §3(a), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(1), effective November 8, 1984, amended that same effective date by striking out "1984" and substituting "1985".

P.L. 96-272, §102(c), provides that P.L. 96-272, §102(a), is effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983, and that from and after October 1, 1983, §472(a)(4)(B)(ii) shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

For legislative history comment, see House Conference Report 96-900, pp. 50 and 51, on P.L. 96-272.

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meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(d) Notwithstanding any other provision of this title, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 427(b).[312]

(e) No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.[313]

(f) For the purposes of this part and part B of this title, (1) the term "voluntary placement" means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term "voluntary placement agreement" means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.[314]

(g) In any case where—

(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

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[312]P.L. 96-272, §102(a)(2), added subsection (d), effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983; and from and after October 1, 1983, §472 shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

[313]P.L. 96-272, §102(a)(2), added subsection (e), effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983; and from and after October 1, 1983, §472 shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

[314]P.L. 96-272, §102(a)(2), added subsection (f), effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983; and from and after October 1, 1983, §472 shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

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the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.[315]

(h)[316] For purposes of titles XIX and XX, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

ADOPTION ASSISTANCE PROGRAM[317]

SEC. 473. [42 U.S.C. 673] (a)(1) Each State with a plan approved under this part shall, directly through the State agency or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (2) of this subsection to parents who, after the effective date of this section, adopt a child who—

(A)(i) at the time adoption proceedings were initiated, met the requirements of section 406(a) or section 407 or would have met such requirements except for his removal from the home of a relative (specified in section 406(a)), either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or 403) or[318] as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, or

(ii) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits,

(B)(i) received aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or[319] court proceedings leading to the removal of such child from the home were initiated, or

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[315]P.L. 96-272, §102(a)(2), added subsection (g), effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983; and from and after October 1, 1983, §472 shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

[316]P.L. 96-272, §102(a)(2), redesignated subsection (d) as subsection (h), effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983; and from and after October 1, 1983, §472(d) shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

[317]See P.L. 96-272, "Adoption Assistance and Child Welfare Act of 1980", §101(a)(4)(B), with respect to interstate agreements.

[318]P.L. 96-272, §102(a)(3)(A), inserted ", either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or 403) or", effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983; and from and after October 1, 1983, §473(a)(1)(A)(i) shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

[319]P.L. 96-272, §102(a)(3)(B), inserted "such agreement was entered into or", effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983; and from and after October 1, 1983, §473(a)(1)(B)(i) shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

(ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section 406(a) within six months prior to the month in which such agreement was entered into or[320] such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, or

(iii) is a child described in subparagraph (A)(ii), and

(C) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

(2) The amount of the adoption assistance payments shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

(3) Notwithstanding the preceding paragraph, (A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the State determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one), and (B) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

(4) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

(b) For purposes of titles XIX and XX, any child with respect to whom adoption assistance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

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[320]P.L. 96-272, §102(a)(3)(C), inserted "such agreement was entered into or", effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983; and from and after October 1, 1983, §473(a)(1)(B)(ii) shall read as it would if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), effective October 11, 1983, amended that effective date by striking out "1983" and substituting "1984".

P.L. 98-617, §4(c)(2), effective November 8, 1984, amended that effective date by striking out "1984" and substituting "1985".

(c) For purposes of this section, a child shall not be considered a child with special needs unless—

(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

(2) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section.

PAYMENTS TO STATES; ALLOTMENTS TO STATES

SEC. 474. [42 U.S.C. 674] (a) For each quarter beginning after September 30, 1980, each State which has a plan approved under this part (subject to the limitations imposed by subsection (b)) shall be entitled to a payment equal to the sum of—

(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 472 for children in foster family homes or child-care institutions; plus

(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements; plus

(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

(B) one-half of the remainder of such expenditures.

(b)(1) Notwithstanding the provisions of subsections (a)(1) and (a)(3), the aggregate of the sums payable thereunder to any State (other than a State subject to limitation under section 1108(a)) with respect to expenditures relating to foster care, for the calendar quarters in any of the fiscal years 1981 through 1985[321] in which the conditions set forth in paragraph (2) are met, shall not exceed the State's allotment for such year.

[321] P.L. 98-617, §4(a)(1), struck out "1984" and substituted "1985", effective November 8, 1984.

(2)(A) The limitation in paragraph (1) shall apply—

(i) with respect to fiscal year 1981, only if the amount appropriated under section 420 for such fiscal year is equal to or greater than $163,550,000;

(ii) with respect to fiscal year 1982, only if the amount appropriated under section 420 for such fiscal year is equal to or greater than $220,000,000;

(iii) with respect to fiscal year 1983, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000;[322]

(iv) with respect to fiscal year 1984, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000; and[323]

(v) with respect to fiscal year 1985, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000.[324]

(B) The limitations set forth in paragraph (1) with respect to the fiscal years 1981 through 1985[325] shall apply only if the required appropriation is made in advance in an appropriation Act (as authorized under section 420(b)) for the fiscal year preceding the fiscal year to which the limitation would apply.

(3) For purposes of this subsection, a State's allotment for any fiscal year shall be the greater of—

(A) the amount determined under paragraph (4);

(B) an amount which bears the same ratio to $100,000,000 as the under age eighteen population of such State bears to the under age eighteen population of the fifty States and the District of Columbia; or

(C) at the option of the State, an amount determined under paragraph (5), but only in the case of a State which meets the requirements of such paragraph (5).

(4) For purposes of paragraph (3)(A), a State's allotment shall be determined as follows:

(A) The allotment for any State for fiscal year 1980 shall be an amount equal to such State's base amount (as determined under subparagraph (C)[326]) increased by 21.2 percent.

(B) The allotment for any State for each of the fiscal years 1981 through 1985[327] shall be an amount equal to such State's allotment for the preceding fiscal year, increased or decreased by a percentage equal to twice the percentage increase or decrease (as the case may be) (but not to exceed an increase or decrease of 10 percent) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living adjustments under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year. For

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[322] P.L. 98-617, §4(a)(2)(A), struck out "and", effective November 8, 1984.

[323] P.L. 98-617, §4(a)(2)(B), struck out the period and substituted "; and", effective November 8, 1984.

[324] P.L. 98-617, §4(a)(2)(C), added clause (v), effective November 8, 1984.

[325] P.L. 98-617, §4(a)(1), struck out "1981 through 1984" and substituted "1981 through 1985", effective November 8, 1984. Executed as though §4(a)(1) struck out "1982 through 1984".

[326] P.L. 98-369, §2663(c)(18)(A), struck out "(c)" and substituted "(C)", effective July 18, 1984, but this amendment shall not be construed as changing or affecting any right, liability, status, or interpretation which existed under this provision before that date.

[327] P.L. 98-617, §4(a)(1), struck out "1984" and substituted "1985", effective November 8, 1984.

purposes of this subparagraph the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

(C) The base amount shall be equal to the amount of the Federal funds payable to such State for fiscal year 1978 under section 403 on account of expenditures for aid with respect to which Federal financial participation is authorized in payments pursuant to section 408[328] (including administrative expenditures attributable to the provision of such aid as determined by the Secretary) and for those States which in fiscal year 1978 did not make foster care maintenance payments under section 408[329] on behalf of children otherwise eligible for such payment, solely because their foster care was provided by related persons, shall be equal to the total amount of Federal funds the State would have been entitled to be paid under section 403 on account of expenditures pursuant to section 408[330] for that fiscal year if such payments had been made. In the event that there is a dispute between any State and the Secretary as to the amount of such expenditures for such fiscal year, then, until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved, the base amount shall be deemed to be the amount of Federal funds which would have been payable under section 403 if the amount of such expenditures were equal to the amount thereof claimed by the State.

(5)(A) For purposes of paragraph (3)(C), a State's allotment for any fiscal year ending after September 30, 1980, and before October 1, 1985[331], may, at the option of the State (and if the State meets the requirements of subparagraphs (B) and (C)), be determined by application of the provisions of paragraph (4) with the following modifications:

(i) The base amount for purposes of determining an allotment for any such fiscal year shall be equal to the base amount determined under paragraph (4)(C) increased by a percentage equal to the percentage by which the average monthly number of children in such State receiving aid with respect to which Federal financial participation is authorized in payments pursuant to section 408[332], or receiving foster care maintenance payments with respect to which Federal financial participation is authorized under this part, for such fiscal year exceeds the average monthly number of such children for fiscal year 1978.

(ii) For purposes of clause (i), the percentage determined under such clause shall not exceed 33.1 percent in the case of fiscal year 1981, 46.4 percent in the case of fiscal year 1982, 61.1 percent in the case of fiscal year 1983, or 77.2 percent in the case of each of fiscal years 1984 and 1985[333].

(B) No State may exercise the option to have its allotment amount determined under the provisions of this paragraph unless, for fiscal year 1978, the average monthly number of children in such State

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[328]P.L. 96-272, §101(a)(2)(A), repealed §408. For the effective date, see P.L. 96-272, "Adoption Assistance and Child Welfare Act of 1980", §101(a)(2). [Appendix AZ]

[329]See footnote 328.

[330]See footnote 328.

[331]P.L. 98-617, §4(a)(3)(A), struck out "1984" and substituted "1985", effective November 8, 1984.

[332]See footnote 328.

[333]P.L. 98-617, §4(a)(3)(B), struck out "fiscal year 1984" and substituted "each of fiscal years 1984 and 1985", effective November 8, 1984.

receiving aid for which Federal financial participation is authorized in payments pursuant to section 408[334] as a percentage of the under age eighteen population of such State, was less than the average such percentage for the fifty States and the District of Columbia.

(C) No State may exercise the option to have its allotment determined under this paragraph for any fiscal year other than fiscal year 1981 after the first fiscal year (after fiscal year 1978) with respect to which the average monthly number of children in such State receiving aid for which Federal financial participation is authorized in payments pursuant to section 408[335], or receiving foster care maintenance payments for which Federal financial participation is authorized under this part, as a percentage of the under age eighteen population of such State, was equal to or greater than the average such percentage for the fifty States and the District of Columbia for the fiscal year 1978. Any allotment determined under this paragraph for a State which opted to have its allotment so determined under this paragraph for the fiscal year prior to the first fiscal year for which its option may not be exercised by reason of the preceding sentence shall be considered to be such State's allotment for such prior fiscal year for purposes of determining allotments for subsequent fiscal years under paragraph (4).

(D) In determining the number of children receiving aid for which Federal financial participation is authorized in payments under section 408[336] or under this part, for any fiscal year, with respect to any State and with respect to the national average for purposes of subparagraphs (B) and (C), there shall be included those children with respect to whom foster care maintenance payments were not made under section 408[337] or this part (though they were otherwise eligible for such payments) solely because their foster care was provided by related persons. In the event that there is a dispute between any State and the Secretary as to the number of such children (with respect to whom foster care maintenance payments were not made) for any fiscal year, then until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved, determinations under subparagraphs (B) and (C) shall be made on the basis of the number of such children claimed by the State.

(E) The Secretary shall promulgate an interim allotment amount for purposes of this paragraph for each fiscal year for each State exercising its option to have its allotment determined under this paragraph, based on the most recent satisfactory data available, not later than six months after the beginning of such fiscal year. The amount of such allotment shall be adjusted, and the final allotment amount shall be promulgated, based on the most recent satisfactory data available, not later than nine months after the end of such fiscal year.

(6) Except in the case of a State which loses the option of having its allotment determined under paragraph (5) by reason of the provisions of paragraph (5)(C), and subject to the provisions of such paragraph (5)(C), the amount of any allotment as determined in

[334] See footnote 328.
[335] See footnote 328.
[336] See footnote 328.
[337] See footnote 328.

accordance with subparagraph (A), (B), or (C) of paragraph (3) for any fiscal year for any State shall be determined in accordance with the provisions of such subparagraph, without regard to the amount of such State's allotment for any prior fiscal year as determined in accordance with another such subparagraph.

(c)(1) Except as provided in paragraphs (3) and (4), for any of the fiscal years 1981 through 1985[338] during which the limitation under subsection (b)(1) is in effect, sums available to a State from its allotment under subsection (b) for carrying out this part, which the State does not claim as reimbursement for expenditures in such year pursuant to subsection (a) of this section, may be claimed by the State as reimbursement for expenditures in such year pursuant to part B of this title, in addition to sums available pursuant to section 420 for carrying out part B.

(2) Except as provided in paragraphs (3) and (4), for any of the fiscal years 1981 through 1985[339] during which the limitation under subsection (b)(1) is not in effect, a State may claim as reimbursement for expenditures for such year pursuant to part B of this title, in addition to amounts claimed under section 420, an amount equal to the amount by which the State's allotment amount for such fiscal year (as determined under subsection (b)(3)) exceeds the amount claimed by such State for such fiscal year as reimbursement for expenses relating to foster care under subsection (a); except that the total amount claimed by such State for such fiscal year under this paragraph, when added to the amount that such State receives for such fiscal year under section 420, may not exceed the amount that would have been payable to such State under section 420 for such fiscal year if the relevant[340] amount described in subsection (b)(2)(A) had been appropriated for such fiscal year.

(3) The provisions of paragraphs (1) and (2) shall not apply for any fiscal year with respect to any State which, with respect to such fiscal year, exercised its option to have its allotment amount determined under subsection (b)(5).

(4)(A) No State may claim an amount under the provisions of this subsection as reimbursement for expenditures for any fiscal year pursuant to part B of this title to the extent that such amount, plus the amount claimed by such State for such fiscal year under section 420, exceeds the amount which would be allotted to such State under part B if the amount appropriated under section 420 were $141,000,000, unless such State has met the requirements set forth in section 427(a).

(B) If, for each of any two consecutive fiscal years, there is appropriated under section 420 a sum equal to $266,000,000, no State may claim any amount under the provisions of this subsection as reimbursement for expenditures for any succeeding fiscal year pursuant to part B of this title unless such State has met the requirements set forth in section 427(b).

(C) If, for each of any two fiscal years during which the limitation under subsection (b)(1) is not in effect, the total amount claimed by a State as reimbursement for expenditures pursuant to part B under

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[338] P.L. 98-617, §4(b), struck out "1984" and substituted "1985", effective November 8, 1984.

[339] See footnote 338.

[340] P.L. 98-369, §2663(c)(18)(B), struck out "relvant" and substituted "relevant", effective July 18, 1984, but this amendment shall not be construed as changing or affecting any right, liability, status, or interpretation which existed under this provision before that date.

this subsection and under section 420 equals the amount which would be allotted to such State for such fiscal year under part B if the amount appropriated under section 420 were $266,000,000, such State may not claim any amount under the provisions of paragraph (2) as reimbursement for expenditures for any succeeding fiscal year pursuant to part B of this title unless such State has met the requirements set forth in section 427(b).

(d)(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled under subsections (a), (b), and (c) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of children in the State receiving assistance under this part, and (C)[341] such other investigation as the Secretary[342] may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

DEFINITIONS

SEC. 475. [42 U.S.C. 675] As used in this part or part B of this title:

(1) The term "case plan" means a written document which includes at least the following: A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or[343] judicial determination made with respect to the child in accordance with section 472(a)(1); and a plan for assuring that the child receives

[341]P.L. 98-369, §2663(c)(18)(C)(i), struck out "(c)" and substituted "(C)", effective July 18, 1984, but this amendment shall not be construed as changing or affecting any right, liability, status, or interpretation which existed under this provision before that date.

[342]P.L. 98-369, §2663(c)(18)(C)(ii), struck out "secretary" and substituted "Secretary", effective July 18, 1984, but this amendment shall not be construed as changing or affecting any right, liability, status, or interpretation which existed under this provision before that date.

[343]P.L. 96-272, §102(a)(4), inserted "voluntary placement agreement entered into or", effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983; and from and after October 1, 1983, §475(1) shall read as if P.L. 96-272, §102, had not been enacted.

P.L. 98-118, §3(b), amended that effective date by striking out "1983" and substituting "1984", effective October 11, 1983.

P.L. 98-617, §4(c)(2), amended that same effective date by striking out "1984" and substituting "1985", effective November 8, 1984.

proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

(2) The term "parents" means biological or adoptive parents or legal guardians, as determined by applicable State law.

(3) The term "adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

(4) The term "foster care maintenance payments" means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

(5) The term "case review system" means a procedure for assuring that—

(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child,

(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship, and

(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved

by the court, no later than eighteen months after the original placement (and periodically thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including, but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis); and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

(6) The term "administrative review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

SEC. 476. [42 U.S.C. 676] (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.

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